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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1685 of 1996

For Approval and Signature:

Hon'ble THE CHIEF JUSTICE G.D.KAMAT

1. Whether Reporters of Local Papers may be allowed to see the judgements?-Yes.

[illegible]

2. To be referred to the Reporter or not?-No.

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3. Whether Their Lordships wish to see the fair copy of the judgement?-No.

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?-No.

5. Whether it is to be circulated to the Civil Judge? - No.

MOHAMED ISHAK ABDULGANI

Versus

STATE OF GUJARAT

Appearance:

MS KRISHNA U MISHRA for Petitioner

Mr. Raval, Addl.P.P., with

Mr.M.R. Anand, PUBLIC PROSECUTOR for Respondent No. 1

CORAM : THE CHIEF JUSTICE G.D.KAMAT

Date of decision: 26/12/96

ORAL JUDGEMENT

Rule. By consent, to be heard forthwith.

Applicant is convicted under the provisions of T.A.D.A. Act on 9.2.1994 and presently undergoing sentence of imprisonment. He has to undergo, in all, sentence of five years. He was on bail during the trial and he also enjoyed furlough in the year 1995. He applied for furlough by his application dated 19.9.1996, but, however, on 11th of November, 1996, his application was rejected on three grounds. This is how he challenges the rejection of the furlough in this petition.

I have heard learned counsel as also learned Additional P.P. The fact remains that the applicant was released on furlough in 1995. If he is made disentitled for furlough in 1996, in the absence of carry forward rule, he will not be able to enjoy the same for this year. The objection raised by the Police is that in the event he is released on furlough at Saraspur, the same may give rise to breach of peace, more particularly because Saraspur is an area known for communal disharmony. In my opinion, this aspect of the matter can be taken care of by the Inspector General of Prisons by a condition that the applicant, when released on furlough, shall remain outside Ahmedabad or during the period he is released, he shall not enter the city limits of Ahmedabad. Accordingly, the petition is partly allowed. The Inspector General of Prisons is directed to consider his furlough within two days and make necessary condition in the light of his observations made above. To the extent indicated, Rule is made absolute.

(apj)